

# Notice of Allowability

Application No.

10/628,708

Examiner

Robert J. Sandy

Applicant(s)

LUBERA ET AL.

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed on 6/24/2004.
2. ☒ The allowed claim(s) is/are 57-66 and 68-78.
3. ☒ The drawings filed on 28 July 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)           |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                   |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance             |
|   | 9. <input type="checkbox"/> Other _____   |

### **EXAMINER'S COMMENTS**

The rejection under 35 U.S.C. 103(a) to claims 57, 58, 60-62, 64-67, 79-81, 83-85 and 87-90, as being unpatentable over Smith et al. (US 6,381,811) in view of Anderson (US 5,251,467), indicated in the prior Office action mailed 24 March 2004, has been withdrawn in view of applicant's amendment to claim 57 and remarks filed 24 June 2004, on pages 10 and 11 pertaining to the Smith et al. ('811) reference not qualifying as prior art.

The rejection under 35 U.S.C. 103(a) to claims 57, 63-66, 68, 73-77, 79, 87, 89 and 90 as being unpatentable over Murray (US 4,300,865) in view of Anderson (US 5,251,467), indicated in the prior Office action, has been withdrawn in view of applicant's amendment to claims 57 and 68 and the filed remarks of 6/24/2004 on pages 12 and 13 pertaining to Murray ('865) where modifying the straight cutting edges 22c of Murray would not be practical and would compromised the function of the cutting edges.

The rejection under 35 U.S.C. 103(a) to claims 57-90 as being unpatentable over Tinnerman (US 2,198,186) in view of Anderson (US 5,251,467), indicated in the prior Office action has been withdrawn in view of applicant's amendment to claims 57 and 68 and remarks on pages 14 and 15, pertaining to Tinnerman not disclosing the claimed spring member.

The claim objections to claims 57, 68 and 79, indicated in the prior Office action, have been withdrawn in view of applicant's amendment to claims 57 and 68, and cancellation of claims 79.

Claims 57-66 and 68-78 are allowed.

### **EXAMINER'S AMENDMENT**

In the specification, on page 1, in line 3 of the first paragraph following the heading "CROSS REFERENCE TO RELATED APPLICATIONS", "06/192,375" has been change to - - 60/192,375 --.

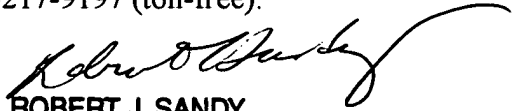
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*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Sandy whose telephone number is 703-305-7413. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**ROBERT J. SANDY**  
**PRIMARY EXAMINER**

Robert J. Sandy  
Primary Examiner  
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